



SENATE JUDICIARY

Exhibit No. 4  
Date 2-22-07  
Bill No. SB 546

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Testimony SB 546

Chairman Laslovich and Members of the Committee,

My name is Scott Crichton here today representing the American Civil Liberties Union in opposition to SB 546. The bill, while well intentioned, gives rise to serious Constitutional questions regarding personal liberties, bodily autonomy and self-determination.

As proposed, SB 546 sets up court-ordered commitment to a chemical dependency treatment program for a pregnant woman who suffers from substance abuse and whose other children have been removed and placed in foster care. This is extraordinary as generally when a person is deprived of liberty, it is because of a threat to the safety and welfare of society at large or danger to the individual himself- as is the case with incarceration or involuntary commitment.

No doubt, the State has a compelling state interest to protect public health, and promote healthy individuals. To this end, the state has an interest to care for children whose parents or other legal guardians may be abusing or neglecting them.

Nothing in the current civil abuse and neglect proceedings imposes a restraint on the parent's liberty like the dependency treatment, especially in a treatment center, proposed under SB 546. Other fundamental rights are affected as well - primarily, the fundamental right that a parent has to raise her or his child.

The overarching issue with this bill is whether court-ordered chemical dependency treatment on an out-patient basis or in a treatment center is an acceptable restraint on individual liberty, given the state's compelling interest in protecting abused and neglected children.

At some level, the state has a compelling interest in promoting healthy pregnancies, as part of its interest to protect public health and individual health. But as you consider this bill, there are some difficult questions that must be considered.

Is the imposition of court-ordered chemical dependency treatment for pregnant mothers of existing children who are abused and neglected a narrowly tailored means to achieve a healthy pregnancy?

Is the deprivation of the mother's liberty the only way for her to get treatment, or could a less restrictive program achieve the same result, such as, court-ordered counseling or out-patient treatment only?

Is the involuntary commitment of drug addicted moms, whether to a center or even to out-patient treatment, designed to protect the mother or is it intended to legislatively extend the compelling state interest to protect a nonviable fetus?

How pregnant does the mother have to be? Does this bill limit her choice to legally abort the fetus to forego treatment or does it require treatment and require her to continue the pregnancy to term?

Is it safe to assume that the state is providing adequate prenatal care as part of the commitment? Would you consider amending the bill to expressly state that prenatal care must be provided and that any decisions about chemical dependency treatment must be made in consultation with the woman's obstetrician or other medical professional qualified to care for drug-addicted pregnant women, in order to protect her and her unborn child's health? Will that be included in the fiscal note?

Under the bill, the commitment period can only last through the end of the pregnancy. What happens once the child is born?

I respectfully request that you weigh carefully these questions and others that arise from this hearing, and consider carefully the constitutional issues before moving forward with this proposed legislation.